

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE

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IN RE: REMBRANDT TECHNOLOGIES, LP  
PATENT LITIGATION

) MDL Docket No. 07-md-1848 (GMS)

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MOTOROLA, INC., CISCO SYSTEMS, INC.,  
SCIENTIFIC-ATLANTA, INC., ARRIS GROUP,  
INC., THOMSON, INC., AMBIT  
MICROSYSTEMS, INC., and NETGEAR, INC.,

) Civil Action No. 07-752-GMS

Plaintiffs,

) JURY TRIAL DEMANDED

v.

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REMBRANDT TECHNOLOGIES, LP,

Defendant.

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REMBRANDT TECHNOLOGIES, LP, and  
REMBRANDT TECHNOLOGIES, LLC d/b/a  
REMSTREAM,

) Civil Action No. 07-752-GMS

v.

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MOTOROLA, INC., CISCO SYSTEMS, INC.,  
SCIENTIFIC-ATLANTA, INC., ARRIS GROUP,  
INC., THOMSON, INC., AMBIT  
MICROSYSTEMS, INC., NETGEAR, INC., TIME  
WARNER CABLE, INC., TIME WARNER CABLE  
LLC, TIME WARNER NEW YORK CABLE LLC,  
TIME WARNER ENTERTAINMENT COMPANY,  
LP, COMCAST CORPORATION, COMCAST  
CABLE COMMUNICATIONS, LLC, CHARTER  
COMMUNICATIONS, INC., CHARTER  
COMMUNICATIONS OPERATING, LLC,

) JURY TRIAL DEMANDED

COXCOM, INC., CSC HOLDINGS, INC.,	)
CABLEVISION SYSTEMS CORPORATION,	)
ADELPHIACOMMINICATIONS	)
CORPORATION, CENTURY-TCI CALIFORNIA	)
COMMUNICATIONS, LP, CENTURY-TCI	)
HOLDINGS, LLC, COMCAST OF	)
FLORIDA/PENNSYLVANIA, L.P. (f/k/a	)
PARNASSOS, LP), COMCAST OF	)
PENNSYLVANIA II, L.P. (f/k/a CENTURY-TCI	)
CALIFORNIA, L.P.), PARNASSOS	)
COMMUNICATIONS, LP, ADELPHIA	)
CONSOLIDATION, LLC, PARNASSOS	)
HOLDINGS, LLC, and WESTERN NY	)
CABLEVISION, LP,	)
	)
Counter-Defendants.	)
	)
	)
REMBRANDT TECHNOLOGIES, LP, and	)
REMBRANDT TECHNOLOGIES, LLC d/b/a	)
REMSTREAM,	)
	)
Counter Counterclaim-Plaintiffs,	)
	)
v.	)
	)
TIME WARNER ENTERTAINMENT-	)
ADVANCE/NEWHOUSE PARTNERSHIP, and	)
COMCAST CABLE COMMUNICATION	)
HOLDINGS, INC.	)
	)
Counter Counterclaim-Defendants.	)
	)
	)

**REPLY OF REMBRANDT TECHNOLOGIES, LP  
AND REMBRANDT TECHNOLOGIES, LLC d/b/a REMSTREAM TO  
COUNTERCLAIMS OF CHARTER COMMUNICATIONS, INC. AND CHARTER  
COMMUNICATIONS OPERATING, LLC**

Defendant/Counter-Plaintiffs Rembrandt Technologies, LP and Rembrandt Technologies, LLC d/b/a Remstream (collectively "Rembrandt"), by their undersigned attorneys, reply to the

counterclaims of Counter-Defendants Charter Communications, Inc. and Charter Communications Operating, LLC (collectively "Charter") as follows:

**Jurisdiction and Venue**

1. These Counterclaims arise under the United States patent laws and the declaratory judgment statute. The Court has subject matter jurisdiction pursuant to 28 U.S.C. §§ 1338(a), 1367, 2201 and 2202.

**Answer:**

Rembrandt admits that Charter purports to bring a declaratory judgment counterclaim of non-infringement and invalidity under the Declaratory Judgment Act, 28 U.S.C. §§ 2201-2202 and the patent laws of the United States, 35 U.S.C. § 100 *et seq.*, but denies that Charter is entitled to its requested relief. Rembrandt does not dispute that this Court has jurisdiction over the asserted claims.

2. This Court has personal jurisdiction over Rembrandt and Remstream because they have submitted to the jurisdiction of this Court by filing their Counterclaim for Patent Infringement in the instant action.

**Answer:**

Admitted only that this Court has personal jurisdiction over Rembrandt and Remstream for purposes of this case. Except as expressly admitted, Rembrandt denies the remaining allegations of this paragraph 2.

3. Venue in this District is proper under 28 U.S.C. §§ 1391 and 1400.

**Answer:**

Rembrandt does not contest that venue is proper in this judicial district under 28 U.S.C. §§ 1391 and 1400, but denies that Charter is entitled to its requested relief.

**Factual Background**

4. Rembrandt and Remstream have accused Charter of infringing the '761, '234, '159, and '444 patents, directly and/or indirectly.

**Answer:**

Admitted.

5. Rembrandt has accused Charter of infringing U.S. Patent No. 5,243,627 ("the '627 patent") entitled "Signal Point Interleaving Technique" (attached hereto as Exhibit A) and the '819, '903, '858, and '631 patents, directly and/or indirectly.

Answer:

Admitted.

6. The '819, '903, '761, '858, '234, '631, '159, '444, and '627 patents are invalid, and have not been and are not infringed by Charter, either directly or indirectly.

Answer:

Denied.

7. Consequently, there is an actual case or controversy between the parties over the infringement, validity, and/or enforceability of the '819, '903, '761, '858, '234, '631, '159, '444, and '627 patents.

Answer:

Admitted.

**Count I**

8. Charter restates and incorporates by reference its allegations in paragraphs 1-7 of its Counterclaims.

Answer:

Rembrandt incorporates by reference its responses to paragraphs 1 through 7 as if fully set forth herein.

9. Charter has not infringed and does not infringe, directly or indirectly, any valid and enforceable claim of the '819 patent.

Answer:

Denied.

10. This is an exceptional case under 35 U.S.C. § 285 because Rembrandt filed suit against Charter alleging infringement of the '819 patent with knowledge of the facts stated in this Counterclaim.

Answer:

Denied that this case is exceptional with respect to any claim for attorneys' fees by Charter.

**Count II**

11. Charter restates and incorporates by reference its allegations in paragraphs 1-7 of its Counterclaims.

Answer:

Rembrandt incorporates by reference its responses to paragraphs 1 through 7 as if fully set forth herein.

12. Charter has not infringed and does not infringe, directly or indirectly, any valid and enforceable claim of the '903 patent.

Answer:

Denied.

13. This is an exceptional case under 35 U.S.C. § 285 because Rembrandt filed suit against Charter alleging infringement of the '903 patent with knowledge of the facts stated in this Counterclaim.

Answer:

Denied that this case is exceptional with respect to any claim for attorneys' fees by Charter.

**Count III**

14. Charter restates and incorporates by reference its allegations in paragraphs 1-7 of its Counterclaims.

Answer:

Rembrandt incorporates by reference its responses to paragraphs 1 through 7 as if fully set forth herein.

15. Charter has not infringed and does not infringe, directly or indirectly, any valid and enforceable claim of the '761 patent.

Answer:

Denied.

16. This is an exceptional case under 35 U.S.C. § 285 because Rembrandt and Remstream filed suit against Charter alleging infringement of the '761 patent with knowledge of the facts stated in this Counterclaim.

Answer:

Denied that this case is exceptional with respect to any claim for attorneys' fees by Charter.

Count IV

17. Charter restates and incorporates by reference its allegations in paragraphs 1-7 of its Counterclaims.

Answer:

Rembrandt incorporates by reference its responses to paragraphs 1 through 7 as if fully set forth herein.

18. Charter has not infringed and does not infringe, directly or indirectly, any valid and enforceable claim of the '858 patent.

Answer:

Denied.

19. This is an exceptional case under 35 U.S.C. § 285 because Rembrandt filed suit against Charter alleging infringement of the '858 patent with knowledge of the facts stated in this Counterclaim.

Answer:

Denied that this case is exceptional with respect to any claim for attorneys' fees by Charter.

Count V

20. Charter restates and incorporates by reference its allegations in paragraphs 1-7 of its Counterclaims

Answer:

Rembrandt incorporates by reference its responses to paragraphs 1 through 7 as if fully set forth herein.

21. Charter has not infringed and does not infringe, directly or indirectly, any valid and enforceable claim of the '234 patent.

Answer:

Denied.

22. This is an exceptional case under 35 U.S.C. § 285 because Rembrandt and Remstream filed suit against Charter alleging infringement of the '234 patent with knowledge of the facts stated in this Counterclaim.

Answer:

Denied that this case is exceptional with respect to any claim for attorneys' fees by Charter.

**Count VI**

23. Charter restates and incorporates by reference its allegations in paragraphs 1-7 of its Counterclaims.

Answer:

Rembrandt incorporates by reference its responses to paragraphs 1 through 7 as if fully set forth herein.

24. Charter has not infringed and does not infringe, directly or indirectly, any valid and enforceable claim of the '631 patent.

Answer:

Denied.

25. This is an exceptional case under 35 U.S.C. § 285 because Rembrandt filed suit against Charter alleging infringement of the '631 patent with knowledge of the facts stated in this Counterclaim.

Answer:

Denied that this case is exceptional with respect to any claim for attorneys' fees by Charter.

**Count VII**

26. Charter restates and incorporates by reference its allegations in paragraphs 1-7 of its Counterclaims.

**Answer:**

Rembrandt incorporates by reference its responses to paragraphs 1 through 7 as if fully set forth herein.

27. Charter has not infringed and does not infringe, directly or indirectly, any valid and enforceable claim of the '159 patent.

**Answer:**

Denied.

28. This is an exceptional case under 35 U.S.C. § 285 because Rembrandt and Remstream filed suit against Charter alleging

**Answer:**

Denied that this case is exceptional with respect to any claim for attorneys' fees by Charter.

**Count VIII**

29. Charter restates and incorporates by reference its allegations in paragraphs 1-7 of its Counterclaims.

**Answer:**

Rembrandt incorporates by reference its responses to paragraphs 1 through 7 as if fully set forth herein.

30. Charter has not infringed and does not infringe, directly or indirectly, any valid and enforceable claim of the '444 patent.

**Answer:**

Denied.

31. This is an exceptional case under 35 U.S.C. § 285 because Rembrandt and Remstream filed suit against Charter alleging infringement of the '444 patent with knowledge of the facts stated in this Counterclaim.

Answer:

Denied that this case is exceptional with respect to any claim for attorneys' fees by Charter.

Count IX

32. Charter restates and incorporates by reference its allegations in paragraphs 1-7 of its Counterclaims.

Answer:

Rembrandt incorporates by reference its responses to paragraphs 1 through 7 as if fully set forth herein.

33. Charter has not infringed and does not infringe, directly or indirectly, any valid and enforceable claim of the '627 patent.

Answer:

Denied.

34. This is an exceptional case under 35 U.S.C. § 285 because Rembrandt filed suit against Charter alleging infringement of the '627 patent with knowledge of the facts stated in this Counterclaim.

Answer:

Denied that this case is exceptional with respect to any claim for attorneys' fees by Charter.

Count X

35. Charter restates and incorporates by reference its allegations in paragraphs 1-7 of its Counterclaims.

Answer:

Rembrandt incorporates by reference its responses to paragraphs 1 through 7 as if fully set forth herein.

36. The claims of the '819 patent are invalid under one or more of 35 U.S.C. §§ 101, 102, 103 and 112.

Answer:

Denied.

37. This is an exceptional case under 35 U.S.C. § 285 because Rembrandt filed suit against Charter alleging infringement of the '819 patent with knowledge of the facts stated in this Counterclaim.

Answer:

Denied that this case is exceptional with respect to any claim for attorneys' fees by Charter.

Count XI

38. Charter restates and incorporates by reference its allegations in paragraphs 1-7 of its Counterclaims.

Answer:

Rembrandt incorporates by reference its responses to paragraphs 1 through 7 as if fully set forth herein.

39. The claims of the '903 patent are invalid under one or more of 35 U.S.C. §§ 101, 102, 103 and 112.

Answer:

Denied.

40. This is an exceptional case under 35 U.S.C. § 285 because Rembrandt filed suit against Charter alleging infringement of the '903 patent with knowledge of the facts stated in this Counterclaim.

Answer:

Denied that this case is exceptional with respect to any claim for attorneys' fees by Charter.

**Count XII**

41. Charter restates and incorporates by reference its allegations in paragraphs 1-7 of its Counterclaims.

**Answer:**

Rembrandt incorporates by reference its responses to paragraphs 1 through 7 as if fully set forth herein.

42. The claims of the '761 patent are invalid under one or more of 35 U.S.C. §§ 101, 102, 103 and 112.

**Answer:**

Denied.

43. This is an exceptional case under 35 U.S.C. § 285 because Rembrandt and Remstream filed suit against Charter alleging infringement of the '761 patent with knowledge of the facts stated in this Counterclaim.

**Answer:**

Denied that this case is exceptional with respect to any claim for attorneys' fees by Charter.

**Count XIII**

44. Charter restates and incorporates by reference its allegations in paragraphs 1-7 of its Counterclaims.

**Answer:**

Rembrandt incorporates by reference its responses to paragraphs 1 through 7 as if fully set forth herein.

45. The claims of the '858 patent are invalid under one or more of 35 U.S.C. §§ 101, 102, 103 and 112.

**Answer:**

Denied.

46. This is an exceptional case under 35 U.S.C. § 285 because Rembrandt filed suit against Charter alleging infringement of the '858 patent with knowledge of the facts stated in this Counterclaim.

Answer:

Denied that this case is exceptional with respect to any claim for attorneys' fees by Charter.

**Count XIV**

47. Charter restates and incorporates by reference its allegations in paragraphs 1-7 of its Counterclaims.

Answer:

Rembrandt incorporates by reference its responses to paragraphs 1 through 7 as if fully set forth herein.

48. The claims of the '234 patent are invalid under one or more of 35 U.S.C. §§ 101, 102,103 and 112.

Answer:

Denied.

49. This is an exceptional case under 35 U.S.C. § 285 because Rembrandt and Remstream filed suit against Charter alleging infringement of the '234 patent with knowledge of the facts stated in this Counterclaim.

Answer:

Denied that this case is exceptional with respect to any claim for attorneys' fees by Charter.

**Count XV**

50. Charter restates and incorporates by reference its allegations in paragraphs 1-7 of its Counterclaims.

Answer:

Rembrandt incorporates by reference its responses to paragraphs 1 through 7 as if fully set forth herein.

51. The claims of the '631 patent are invalid under one or more of 35 U.S.C. §§ 101, 102, 103 and 112.

Answer:

Denied.

52. This is an exceptional case under 35 U.S.C. § 285 because Rembrandt filed suit against Charter alleging infringement of the '631 patent with knowledge of the facts stated in this Counterclaim.

Answer:

Denied that this case is exceptional with respect to any claim for attorneys' fees by Charter.

**Count XVI**

53. Charter restates and incorporates by reference its allegations in paragraphs 1-7 of its Counterclaims.

Answer:

Rembrandt incorporates by reference its responses to paragraphs 1 through 7 as if fully set forth herein.

54. The claims of the '159 patent are invalid under one or more of 35 U.S.C. §§ 101, 102, 103 and 112.

Answer:

Denied.

55. This is an exceptional case under 35 U.S.C. § 285 because Rembrandt and Remstream filed suit against Charter alleging infringement of the '159 patent with knowledge of the facts stated in this Counterclaim.

Answer:

Denied that this case is exceptional with respect to any claim for attorneys' fees by Charter.

**Count XVII**

56. Charter restates and incorporates by reference its allegations in paragraphs 1-7 of its Counterclaims.

Answer:

Rembrandt incorporates by reference its responses to paragraphs 1 through 7 as if fully set forth herein.

57. The claims of the '444 patent are invalid under one or more of 35 U.S.C. §§ 101, 102, 103, and 112.

Answer:

Denied.

58. This is an exceptional case under 35 U.S.C. § 285 because Rembrandt and Remstream filed suit against Charter alleging infringement of the '444 patent with knowledge of the facts stated in this Counterclaim.

Answer:

Denied that this case is exceptional with respect to any claim for attorneys' fees by Charter.

**Count XVIII**

59. Charter restates and incorporates by reference its allegations in paragraphs 1-7 of its Counterclaims.

Answer:

Rembrandt incorporates by reference its responses to paragraphs 1 through 7 as if fully set forth herein.

60. The claims of the '627 patent are invalid under one or more of 35 U.S.C. §§ 101, 102, 103 and 112.

Answer:

Denied.

61. This is an exceptional case under 35 U.S.C. § 285 because Rembrandt filed suit against Charter alleging infringement of the '627 patent with knowledge of the facts stated in this Counterclaim.

Answer:

Denied that this case is exceptional with respect to any claim for attorneys' fees by Charter.

**AFFIRMATIVE DEFENSES**

**First Affirmative Defense**

1. The Counterclaims fail to state a claim upon which relief can be granted.

**Second Affirmative Defense**

2. The '819, '903, '761, '858, '234, '631, '159, '444, and '627 patents are enforceable in all respects and infringed by Charter.

**Third Affirmative Defense**

3. Charter's counterclaims are barred, in whole or in part, by the doctrine of estoppel.

**Fourth Affirmative Defense**

4. Charter's counterclaims are barred, in whole or in part, by the doctrine of waiver.

**Fifth Affirmative Defense**

5. Charter is not entitled to the relief requested as a matter of law.

**Sixth Affirmative Defense**

6. Charter's counterclaims are barred by the doctrine of laches.

**Seventh Affirmative Defense**

7. Rembrandt reserves the right to assert additional and/or different affirmative defenses as discovery progresses, and hereby reserves the right to amend its reply to Charter's Counterclaim in support of any such defenses.

**PRAYER FOR RELIEF**

Rembrandt denies that the Charter Counterclaimants are entitled to any of the relief requested in their prayer for relief. Rembrandt respectfully requests that the Court enter judgment in its favor and against the Charter Counterclaimants on all of their claims; that the Court find this case exceptional and award Rembrandt its costs and attorneys' fees pursuant to 35 U.S.C. § 285; and that the Court award Rembrandt such other further relief as the Court deems appropriate.

Dated: February 27, 2008

/s/ Collins J. Seitz, Jr.

Collins J. Seitz, Jr. (#2237)

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Remstream

**CERTIFICATE OF SERVICE**

I, James D. Heisman., hereby certify that on the 27<sup>th</sup> day of February, 2008, a true copy of the foregoing **Reply of Rembrandt Technologies, LP and Rembrandt Technologies, LLC d/b/a Remstream to Counterclaims of Charter Communications, Inc. and Charter Communications Operating, LLC** was electronically filed with the Clerk of the Court using CM/ECF which will send notification of such filing to the following and the document is available for viewing and downloading from CM/ECF:

**BY E-MAIL**

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